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Attorney for Plaintiff Richard Smith

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON

In re

JASON WRIGHT
ROXANNE WRIGHT,

Debtors.

RICHARD SMITH,

Plaintiff,

v.

JASON WRIGHT,

Defendant.

Case No. 20-60085-tmr13

Adv. Proc. Case No.

COMPLAINT FOR EXCEPTION TO
DISCHARGE FOR WILLFUL OR
MALICIOUS INJURY UNDER 11
U.S.C. § 1328(a)(4); AND FOR
DAMAGES FOR CRIMINAL
RESTITUTION FOR WILLFUL OR
MALICIOUS INJURY UNDER 11
U.S.C. §11 U.S.C. § 1328(a)(3)

Plaintiff Richard Smith alleges as follows:

JURISDICTION, VENUE, AND AUTHORITY

1.

This action is for claims pursuant to 11 U.S.C. § 1328(a)(3) and 1328(a)(4). The claims under Claims 1 and 2 are core proceeding under 28 U.S.C. § 157(b)(2)(I), and this court has jurisdiction under 28 U.S.C. § 1334.

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DISCHARGE FOR WILLFUL OR MALICIOUS INJURY
UNDER 11 U.S.C. § 1328(a)(4); AND FOR DAMAGES
FOR CRIMINAL RESTITUTION FOR WILLFUL OR
MALICIOUS INJURY UNDER 11 U.S.C. §11 U.S.C.
§ 1328(a)(3)

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2.

Venue is appropriate in the District of Oregon pursuant to 28 U.S.C. § 1409.

3.

This court has constitutional authority to enter a final order or judgment in this proceeding.

PARTIES

4.

Plaintiff Richard Smith (hereinafter “Plaintiff”) has standing as a creditor to bring this action.

5.

Defendant Jason Wright (hereinafter “Defendant”) and his wife Roxanne Wright voluntarily filed a Chapter 13 bankruptcy case on January 15, 2020.

FACTUAL ALLEGATIONS

6.

In the early morning hours of August 23, 2016, Plaintiff and Defendant were at the Seattle-Tacoma International Airport in King County, Washington.

7.

Plaintiff and Defendant each arrived at the airport on a red eye flight from Los Angeles.

8.

Upon arrival, Plaintiff and Defendant were riding within the same train car of the Satellite Transit System (STS), the automated train system that moves people between the main terminal of the airport and the north and south terminals.

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9.

As the train doors closed, Defendant sat at the end of the train car and made noises, kicked the train car wall, and looked menacingly at Plaintiff.

10.

Based on Defendant's strange and intimidating behavior, Plaintiff became fearful for his safety. Plaintiff noticed that there were no security cameras on the train, so Plaintiff started video-recording Defendant with his cell phone camera.

11.

When Defendant noticed that Plaintiff was recording him, Defendant angered and started flipping off Plaintiff.

12.

Defendant charged Plaintiff to snatch Plaintiff's mobile phone. Defendant cut off the video by knocking the mobile phone to the ground.

13.

Plaintiff sustained significant injuries during the incident, requiring medical attention and eventually surgery on his shoulder.

14.

Plaintiff's mobile phone was also broken in the incident.

15.

Defendant's actions were the proximate cause of Plaintiff's injuries, to include special and general damages to be proven at the time of trial.

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ASSAULT

16.

Defendant's actions described herein constituted an attempted by Defendant to cause apprehension by Plaintiff of a harmful or offensive contact.

17.

By his actions, Defendant intended to interfere with Plaintiff's personal integrity.

18.

Plaintiff's apprehension was reasonable.

19.

Defendant's actions caused harm to Plaintiff.

BATTERY

20.

Defendant's actions described herein resulted in contact with Plaintiff's mobile phone and person.

21.

Defendant's contact with Plaintiff was harmful or offensive.

22.

Defendant intended to bring about harmful or offensive contact as indicated by the circumstances described herein.

23.

Defendant's harmful or offensive contact with Plaintiff's mobile phone or person caused Plaintiff injury.

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For its first claim for relief against Defendant Jason Wright, Plaintiff alleges:

First Claim for Relief Against Defendant Jason Wright

11 U.S.C. § 1328(a)(4)

(Willful or Malicious Injury in a Civil Matter)

24.

Plaintiff realleges paragraphs 1 - 23 and incorporates them herein by this reference.

25.

Defendant is subject to a pending lawsuit in Superior Court for the State of Washington for King County, Case No. 18-2-20840-8 KNT (hereinafter “King County Litigation”), a copy of the Amended Complaint is attached hereto as Exhibit 1 and incorporated herein by this reference. On or about January 15, 2020 Jason and Roxanne Wright filed a voluntary Chapter 13 bankruptcy in case number 20-60085-tmr13.

26.

The King County Litigation is a civil action by Plaintiff against Defendant for claims that are willful or malicious in a civil matter.

27.

Plaintiff’s claims in the King County Litigation are not subject to the discharge pursuant to 11 U.S.C. § 1328(a)(4).

For its second claim for relief against Defendant Jason Wright, Plaintiff alleges:

Second Claim for Relief Against Defendant Jason Wright

11 U.S.C. § 1328(a)(3)

(Restitution or Criminal Fine)

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28.

Plaintiff realleges and incorporates by reference paragraphs 1 - 26 and incorporates them herein by this reference.

29.

As a consequence of Defendants actions towards Plaintiff on or about August 23, 2016, Defendant has been charged with certain crimes in King County Superior Court.

30.

As a consequence of the criminal action against Defendant, the King County Court in the criminal case may order restitution or criminal fine as part of a sentence on Defendant's conviction of one or more crimes.

31.

Restitution or fines awarded in the King County Superior Court criminal matter are not subsection to the discharge under 11 U.S.C. § 1328(1)(3).

WHEREFORE, Plaintiff prays for relief against Defendant as follows:

1. On Plaintiff's First Claim for Relief, an order declaring that all damages awarded in the King County Superior Court civil case, also known as the King County Litigation, is excepted from discharge pursuant 11 U.S.C. § 1328(a)(4);

2. On Plaintiff's Second Claim for Relief for an order that any restitution or criminal fine ordered in King County Superior Court criminal matter is excepted from the discharge pursuant to 11 U.S.C. § 1328(a)(3);

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3. For Plaintiff's costs and disbursements incurred herein; and
4. For such further relief as the court deems just and equitable.

Dated this 1st day of May, 2020.

JORDAN RAMIS PC

By: /s/ Russell D. Garrett

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SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR KING COUNTY

RICHARD L. SMITH,

 Plaintiff,

 v.

JASON M. WRIGHT,

 Defendant.

NO. 18-2-20840-8 KNT

PLAINTIFF RICHARD SMITH'S
AMENDED COMPLAINT FOR
DAMAGES

COMES NOW, Plaintiff Richard Smith, by and through his undersigned counsel
of record alleges as follows:

I. INCORPORATION

By way of this reference, each paragraph contained herein is incorporated as
support for each paragraph which follows.

II. PARTIES

2.1 Plaintiff, Richard L. Smith, (hereinafter "Plaintiff") was at all relevant times
hereto a resident of Snohomish County, Washington.

2.2 Defendant, Jason M. Wright, was a resident of King County, Washington
at all times relevant and material to this complaint. Upon information and belief,

1 Defendant Wright is presently a resident of Medford, Oregon.

2 **I. JURISDICTION AND VENUE**

3 2.1 The Superior Courts of Washington have original subject matter
4 jurisdiction of this matter pursuant to the Constitution of the State of Washington, Article
5 IV, § 6, and RCW 4.28.185(1)(b).

6 2.2 Venue is proper in King County Superior Court, pursuant to RCW
7 4.12.020, because the cause of action herein arose in King County, Washington.

8 **II. STATEMENT OF FACTS**

9 2.1 In the early morning hours of August 23, 2016, Plaintiff Richard Smith
10 and Defendant Jason Wright were at the Seattle-Tacoma International Airport in King
11 County, Washington.

12 2.2 Plaintiff and Defendant each arrived at the airport on a red eye flight from
13 Los Angeles.

14 2.3 Upon arrival, Plaintiff and Defendant were riding within the same train car
15 of the Satellite Transit System (STS), the automated train system that moves people
16 between the main terminal of the airport and the north and south terminals.

17 2.4 As the train doors closed, Mr. Wright sat at the end of the train car and
18 made noises, kicked the train car wall, and looked menacingly at Mr. Smith.

19 2.5 Based on Mr. Wright's strange and intimidating behavior, Mr. Smith
20 became fearful for his safety. He noticed that there were no security cameras on the
21 train, so Mr. Smith started video-recording Mr. Wright with his cell phone camera.

22 2.6 When Mr. Wright noticed that Mr. Smith was recording him, Mr. Wright
23 angered and started flipping off Mr. Smith.

1 2.7 Mr. Wright charged at Mr. Smith to snatch Mr. Smith's mobile phone. Mr.
2 Wright cut off the video by knocking the mobile phone to the ground.

3 2.8 Mr. Wright then fought with Mr. Smith, holding Mr. Smith in a headlock,
4 wrenching his right arm, and hitting his head and body. Mr. Smith was unable to move
5 and unable to reach his mobile phone.

6 2.9 Mr. Smith sustained significant injuries during the incident, requiring
7 medical attention and eventually surgery on his shoulder.

8 2.10 Mr. Smith's mobile phone was also broken in the incident.

9 2.11 Mr. Wright's actions were the proximate cause of Mr. Smith's injuries, to
10 include special and general damages to be proven at the time of trial.

11 **III. CAUSE OF ACTION: NEGLIGENCE**

12 3.1 Defendant Wright owed a duty of ordinary care to refrain from causing
13 injury to others.

14 3.2 Specifically, Defendant Wright owed a duty to conduct himself in manner
15 so as not to injure Mr. Smith while attempting to stop Mr. Smith's mobile phone from
16 recording video.

17 3.3 Furthermore, Defendant Wright owed a duty to not to injure Mr. Smith in
18 his struggle to regain control of his mobile phone.

19 3.4 Mr. Wright breached these duties of ordinary care by injuring Mr. Smith
20 while attempting to prevent Mr. Smith from recording video on his mobile phone.

21 3.5 Mr. Wright's breaches proximately caused harm to Mr. Smith.

22 3.6 Specifically, Mr. Smith sustained physical, psychological, and emotional
23 damages as a result of the August 23, 2016, incident.

1 **IV. CAUSE OF ACTION: GROSS NEGLIGENCE**

2 4.1 Defendant Wright owed a duty of care to refrain from injuring others.

3 4.2 Specifically, Defendant Wright owed a duty to conduct himself in manner
4 so as not to injure Mr. Smith while attempting to stop Mr. Smith's mobile phone from
5 recording video.

6 4.3 Furthermore, Defendant Wright owed a duty to not to injure Mr. Smith in
7 his struggle to regain control of his mobile phone.

8 4.4 Mr. Wright breached these duties by failing to exercise even slight care
9 when he injured Mr. Smith in his attempts to prevent Mr. Smith from recording video
10 on his mobile phone.

11 4.5 Mr. Wright exercised substantially less than ordinary care.

12 4.6 Mr. Wright's breaches of care proximately caused harm to Mr. Smith.

13 4.7 Specifically, Mr. Smith sustained physical, psychological, and emotional
14 damages as a result of the August 23, 2016, incident.

15 **V. CAUSE OF ACTION: ASSAULT**

16 5.1 Mr. Wright's actions described herein constituted an attempt by Mr.
17 Wright to cause apprehension by Mr. Smith of a harmful or offensive contact.

18 5.2 By his actions, Mr. Wright intended to interfere with Mr. Smith's personal
19 integrity.

20 5.3 Mr. Smith's apprehension was reasonable.

21 5.4 Mr. Wright's actions caused harm to Mr. Smith.

22 **VI. CAUSE OF ACTION: BATTERY**

23 6.1 Mr. Wright actions described herein resulted in contact Mr. Smith's

1 mobile phone and person.

2 6.2 Mr. Wright's contact with Mr. Smith was harmful or offensive.

3 6.3 Mr. Wright intended to bring about harmful or offensive contact as
4 indicated by the circumstances described herein.

5 6.4 Mr. Wright's harmful or offensive contact with Mr. Smith's mobile phone
6 or person caused Mr. Smith injury.

7 **VII. PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiff prays for Judgment against Defendant:

9 7.1 Awarding Plaintiff both non-economic and economic damages to be
10 proven at trial;

11 7.2 Awarding Plaintiff reasonable attorney's fees and costs as available
12 under law;

13 7.3 Awarding Plaintiff any and all applicable interest on the judgment; and

14 7.4 Awarding Plaintiff such other and further relief as the Court deems just
15 and proper under the circumstances of this case.

16 DATED this 30th day of July, 2019.

17 SOUND INJURY LAW PLLC

18 By s/ John C. Hardie

19 John C. Hardie, WSBA No. 50594
20 jch@soundinjury.law
21
22
23

PLAINTIFF RICHARD SMITH'S AMENDED
COMPLAINT - 5 of 6

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on Tuesday, July 30, 2019, I sent for delivery a true and correct copy of the foregoing Notice of Court Date, **Plaintiff Richard Smith's Amended Complaint** by the method indicated below, and addressed to the following:

Jason Wright
3537 South Fork Little Butte Creek Rd.
Eagle Point, OR 97524

Brittany C. Ward
Mix Sanders Thompson, PLLC
1420 Fifth Ave., Ste. 2200
Seattle, WA 98101

<input type="checkbox"/>	U.S. MAIL
<input checked="" type="checkbox"/>	LEGAL MESSENGER (Mr. Wright)
<input checked="" type="checkbox"/>	E-SERVICE (Ms. Ward)
<input type="checkbox"/>	HAND DELIVERED
<input type="checkbox"/>	EXPRESS DELIVERY
<input type="checkbox"/>	FACSIMILE

s/ John C. Hardie
JOHN C. HARDIE